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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91223065
Party	Defendant C2 Management Group LLC
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Submission	Answer
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Date	03/21/2016
Attachments	Answer to Opp_PN TM_C2 Mgmt_3-21-16.pdf(108342 bytes )

1 **BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
2 **TRADEMARK TRIAL AND APPEAL BOARD**  
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4 In the Matter of Trademark Application

5 Serial No. 86/256,711

6 Mark: PN (Stylized/Design)

7 Class: 042

8 Application Date: April 18, 2014

9 Publication Date: April 7, 2015

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12 PN, LLC, a Delaware limited liability  
13 company,

14 Opposer,

15 v.

16 C2 Management Group LLC, a Maryland  
17 limited liability company,

18 Applicant.

} Opposition No. 91223065

} **APPLICANT'S ANSWER TO**  
} **NOTICE OF OPPOSITION**

19 Applicant C2 Management Group LLC, a Maryland limited liability company,  
20 located at 2411 Crofton Lane, Suite 2A, Crofton, Maryland 21114 ("Applicant"), by its  
21 Attorney, hereby sets forth its Answer to the Notice of Opposition filed by PN, LLC, a  
22 Delaware limited liability company, located at #171, 102 NE 2nd Street, Boca Raton,  
23 Florida 33432 ("Opposer").

24 In response to the statements and paragraphs of the Notice of Opposition,  
25 Applicant answers as follows:

26 Applicant denies Opposer's statement in the preamble that it would be damaged  
27 by the registration of Applicant's trademark, Application No. 86/256,711 for the mark  
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1 PN (stylized design), for services in International Class 42.

2 1. Applicant is under information and belief that the Opposer's allegations of Para.  
3 1 referring to providing computer programming under the mark is false; Applicant has  
4 no knowledge as to computer software and security consulting services provided; the  
5 allegation is therefore denied.  
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7 2. Applicant is without all the knowledge and information sufficient to adequately  
8 respond to the averments set forth in Para. 2, and the allegation is therefore denied.

9 3. The U.S.P.T.O. trademark registration and prosecution records speak for  
10 themselves. Applicant denies the legal effect of this averment that filing a service mark  
11 application provides any ability to deny registration of the mark to the Applicant.  
12 Applicant further avers that the Opposer's recent trademark application (No.  
13 86/711,994) filed virtually simultaneously with the Opposition on July 31, 2015  
14 constitutes fraud on the U.S.P.T.O.  
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17 4. Denied.

18 5. The U.S.P.T.O. trademark registration and prosecution records speak for  
19 themselves. It is admitted that the Opposer owns said registrations in PAUL.COM  
20 (Reg. No. 4,546,055), PAUL DOT COM (Reg. No. 4,546,054) and  
21 IDENTIFICATION.COM (Reg. No. 2,922,662). The claimed registrations are not  
22 pertinent to the Applicant's registration because the Opposer's marks are different and  
23 are therefore not related. 37 C.F.R. §2.36; TMEP §812. The remainder of this  
24 paragraph is explicitly denied with regard to the Opposer providing services interstate  
25 during the time periods alleged and in any competitive areas of commerce.  
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28 6. The U.S.P.T.O. trademark registration and prosecution records speak for

1 themselves. It is admitted that the Applicant filed U.S. Trademark Application (Ser.  
2 No. 86/256,711) and other facts in the docket history of the prosecution of the  
3 Application. Applicant admits that its Application and the basis of the registration is as  
4 an intent-to-use application under Section 1(B).

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6 7. The averment makes a legal conclusion. Applicant denies Para. 7 with respect to  
7 the validity, effect or any other matter related to trademark rights. Applicant otherwise  
8 denies Para. 7 with respect to any explicit or inferred allegation of fact.

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10 8. Applicant lacks knowledge as to a PN mark, (Ser. No. 85/467,635). To the  
11 extent that this was a typo, and refers to the Applicant's mark (No. 86/256,711), the  
12 allegation is denied.

13 9. Denied.

14 Applicant denies Opposer's statement in the conclusion that it would be damaged  
15 by the registration of Applicant's trademark, Application No. 86/256,711 for the mark  
16 PN (stylized design), for services in International Class 42.

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18 AFFIRMATIVE DEFENSES

19 1. Opposer's averments in its Opposition lack substantial merit and the Opposition  
20 should be denied.

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22 2. Opposer lacks sufficient rights in the purported marks to support its Opposition  
23 to the Applicant's registration.

24 3. Opposer fails to state a claim or allege any trade or service mark rights in a PN  
25 stylized mark under which it may have provided services.

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27 4. Opposer's use of a PN stylized mark is completely different from the Applicant's  
28 PN stylized mark.

1 5. Opposer's use of the PN word mark is as an abbreviated source identifier for  
2 Paul Niedermeyer, identifies the services alleged to have been provided by a particular  
3 person, and therefore the mark constitutes a generic mark. As Opposer's word mark has  
4 not acquired secondary meaning, the Opposer has obtained no trademark rights.

5 6. Opposer's generic word mark, even if it has acquired secondary meaning in the  
6 applicable fields of commerce, does not give it the right to claim exclusive use of the  
7 two-letter combination "PN" word mark without design or other limitations.

8 7. Opposer's use of a PN stylized design mark, including its use at a domain web  
9 address pn.com, does not give it the right to claim exclusive use of the two-letter  
10 combination "PN" word mark without design or other limitations.

11 8. Opposer's use of the two-letter combination "PN" word mark does not give it the  
12 right to claim exclusive use of such a two-letter combination word mark without design  
13 or other limitations.

14 9. A two-letter combination "PN" word mark is highly diluted, and hence weak,  
15 and Opposer's purported rights do not extend to make the Opposer's marks the same as  
16 or confusingly similar to the Applicant's mark.

17 10. Opposer's use of the claimed mark has been in intrastate commerce and not in  
18 interstate commerce for any services sold in the same channels of trade or to the same  
19 purchasers.

20 11. There is no likelihood of confusion, mistake or deception because the goods and  
21 services sold by the Applicant and the Opposer are not sold in the same channels of  
22 trade, or to the same purchasers.

23 12. Applicant's use of its mark will not be mistakenly be thought by the public to  
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1 derive from the same source as Opposer's services, nor will such use be thought by the  
2 public to be a use of Opposer or with Opposer's authorization or approval.

3 13. There is no likelihood of confusion, mistake, or deception between Applicant's  
4 mark and Opposer's marks.

5 14. Applicant's mark, when used to identify Applicant's services, is not likely to  
6 cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or  
7 association of the Applicant with Opposer, or as to the origin, sponsorship, or approval  
8 of Applicant's goods by Opposer.

9 15. There is no likelihood of confusion because the parties' services are not related  
10 in some manner and the conditions surrounding their marketing are such that they  
11 would not be encountered by the same purchasers under circumstances that would give  
12 rise to the mistaken belief that the services come from a common source.

13 16. Opposer lacks standing to oppose Applicant's registration and the Opposition  
14 should otherwise be dismissed because Opposer is not likely to be damaged or injured  
15 by the registration and use of the Applicant's mark in its stylized form, as this  
16 constitutes a sufficient limitation to distinguish the marks and the sources.

17 17. Opposer has not continuously used PN as a mark and has no trademark rights in  
18 that term with regard to some or all of the services listed in Opposer's Notice of  
19 Opposition.

20 18. Opposer has abandoned the PN mark for any services it may have originally  
21 provided in the same channels of trade, or to the same purchasers as the Applicant.

22 19. Based upon the averments in these Affirmative Defenses, Applicant further avers  
23 that the Opposer's recent trademark application (No. 86/711,994) filed virtually  
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1 simultaneously with the Opposition on July 31, 2015 makes a false, material  
2 representation of fact in its declaration of use in connection with an application to  
3 register “computer programming” services, is an intent to deceive, constitutes a  
4 “reckless disregard for the truth,” constitutes fraud on the U.S.P.T.O., and constitutes  
5 inequitable conduct, and requests that all of the Opposer’s trademark registrations it  
6 asserts are related and which it cites in its Opposition should be voided and cancelled.

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8 20. As Applicant learns more about Opposer’s business affairs, Applicant anticipates  
9 that additional defenses will be raised and the Applicant specifically reserves the right  
10 to raise any such additional defenses.  
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12 WHEREFORE, having answered as fully as required, Applicant contends that  
13 this Opposition is groundless and baseless in fact; Opposer has not shown wherein it  
14 will be, or is likely to be, damaged by registration of Applicant’s PN (stylized design)  
15 mark; and Applicant prays that the Notice of Opposition be dismissed in its entirety, and  
16 that registration of Application No. 86/256,711 issue to Applicant for its mark.  
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Respectfully,

By: /Scott A. Conwell/  
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*Attorney for Applicant, C2  
Management Group LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 21, 2016, a true and complete copy of the foregoing Applicant's Answer To Notice Of Opposition has been served on the below opposing counsel/party of record by mailing said copy via First Class Mail, postage prepaid to:

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*Counsel for Opposer*

/Scott A. Conwell/  
SCOTT A. CONWELL